

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 40—Fantasy Sports Contests

ORDER OF RULEMAKING

By the authority vested in the Missouri Gaming Commission (MGC) under section 313.955, RSMo Supp. 2016, the commission adopts a rule as follows:

11 CSR 45-40.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 3, 2016 (41 MoReg 1313–1314). Changes have been made to the text of the proposed rule, so it is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing was held on this proposed rule on November 2, 2016. Three (3) people commented on this proposed rule at the public hearing and also submitted their comments in writing. MGC staff commented on this rule.

COMMENT #1: Sean Ostrow, on behalf of Fan Duel, and Derek Hein, on behalf of Draft Kings, commented that the net revenue and resident percentage definitions are problematic because they could lead to double taxation if a Missouri resident submitted an entry fee while physically located in another state that bases its tax on geo-location.

RESPONSE: The definitions used to calculate the annual operation fee based on Missouri residency were included in the Missouri Fantasy Sports Consumer Protection Act (the Act). The Missouri Gaming Commission does not have the authority to alter or vary from the provisions of the statute.

COMMENT #2: Mr. Ostrow and Mr. Hein suggested removing the inclusion of “free entry”, as they do not believe it was the intent of the legislation to require regulation of free contests. The statute specifically refers to “cash” and “cash equivalents,” but indicates no intent to regulate free play contests.

RESPONSE AND EXPLANATION OF CHANGE: A revision was made to clarify that the definition for entry fees would include free entries for paid contests, not free entries to contests that are free to all participants.

COMMENT #3: Daniel Haight, on behalf of Yahoo!, suggested redefining Fantasy Sports Contest Operator to limit it to the division within the larger company that operates the Fantasy Sports Contests.

RESPONSE: The definition of Fantasy Sports Contest Operator mirrors the definition in the Act. The Missouri Gaming Commission does not have the authority to alter or vary from the provisions of the statute. No change was made in response to this comment.

COMMENT #4: The MGC noted that the Revisor of the *Missouri Revised Statutes* renumbered the sections of the statute created by HB 1941, the Missouri Fantasy Sports Consumer Protection Act (The Act).

RESPONSE AND EXPLANATION OF CHANGE: The Commission revised section (7) and the authority section of this rule to reference the renumbered sections of The Act.

11 CSR 45-40.010 Definitions

(2) Entry fee—anything of value including, but not limited to, contest credit, free entry to a paid contest, cash, or a cash equivalent, that a fantasy sports contest operator collects in order to participate in a fantasy sports contest.

(7) Licensed operator—a FSCO licensed pursuant to section 313.910, RSMo to offer FSCs for play on an authorized internet website in Missouri;

AUTHORITY: sections 313.950 and 313.955, RSMo 2016. Emergency rule filed August 29, 2016, effective Sept. 8, 2016, expires March 6, 2017. Original rule filed Aug. 29, 2016.